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JUN 28 1996

Federal Communications Commission
Office of Secretary

June 28, 1996

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Granite Broadcasting Corporation
Comments on Proposal of Harbor Broadcasting, Inc. to
Amend FM Table of Allotments at Hermantown, Minnesota
MM Docket No. 96-105, RM-8793

Dear Mr. Caton:

Enclosed for filing on behalf of Granite Broadcasting Corporation, the ultimate licensee of Station KBJR(TV), Superior, Wisconsin, are an original and four copies of its Comments on the proposal by Harbor Broadcasting, Inc. to upgrade its construction permit for Channel 221 at Hermantown, Minnesota, from Class A to Class C3.

We also have enclosed an additional copy of these Comments to be date stamped and returned to us. Thank you for your attention to this matter and please direct any questions or correspondence to the undersigned.

Sincerely,

Michael Ray

Tom W. Davidson, P.C.
Michael Ray

Attorneys For
GRANITE BROADCASTING CORPORATION

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | | |
|---------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | |
| Table of Allotments, |) | MM Docket No. 96-105 |
| FM Broadcast Stations |) | RM-8793 |
| (Ely, Hermantown and |) | |
| Pine City, Minnesota) |) | |

To: Chief, Allocations Branch, Policy and Rules Division,
Mass Media Bureau

COMMENTS OF GRANITE BROADCASTING CORPORATION

Granite Broadcasting Corporation ("Granite"), the ultimate 100 percent owner of television Station KBJR(TV), Superior, Wisconsin, by its attorneys, hereby files its Comments on the proposal by Harbor Broadcasting, Inc. ("Harbor") to upgrade Channel 221 at Hermantown, Minnesota from Class A to Class C3. According to Harbor's engineering analysis for the proposed upgrade, the 1 mV/m contour of Channel 221 at Class C3 will be completely encompassed within the Grade B contour of Station KBJR(TV). Granite is concerned that Harbor's FM signal will interfere with or blanket the signal of Station KBJR(TV). If the Mass Media Bureau ("Bureau") approves the upgrade, Granite requests that it condition the authorization to require Harbor to take all necessary steps to correct any blanketing or other prohibited interference to Station KBJR(TV) as a result of the proposed upgrade to Channel 221C3.

I. **THE BUREAU MUST CONDITION ANY GRANT OF HARBOR'S PROPOSED UPGRADE TO ENSURE THAT NO INTERFERENCE IS CAUSED TO THE LICENSED OPERATION OF STATION KBJR(TV)**

Granite is the ultimate parent company of KBJR License, Inc., the licensee of Station KBJR(TV). Harbor is the permittee of an FM station on Channel 221A at Hermantown (FCC File No. BPH-950206MS). On March 15, 1996, Harbor filed a Petition for Rulemaking ("Petition") proposing to amend the FM Table of Allotments, 47 C.F.R. § 73.202 (1996), to substitute Channel 221C3 for Channel 221A in Hermantown, Minnesota. Harbor also requested the substitution of Channel 233A for Channel 221A at Ely, Minnesota, and substitution of Channel 265A for Channel 221A at Pine City, Minnesota, to accommodate the upgrade at Hermantown. On May 7, 1996, the Bureau released a Notice of Proposed Rulemaking and Order to Show Cause proposing to adopt the Harbor upgrade. The Bureau established June 28, 1996, as the due date for initial comments on Harbor's proposal.

According to Harbor's engineering exhibit attached to its Petition, the 1 mV/m contour of Channel 221C3 will be completely encompassed within the Grade B contour of Station KBJR(TV). Harbor Petition, Engineering Statement at § 4.0, Figure 4.0. The Federal Communications Commission ("Commission") has held that where the Grade B contour of a Channel 6 television station and the proposed 1 mV/m signal contour of an upgraded facility on Channel 221 would overlap, the applicant seeking the upgrade bears a heavy burden to show that the upgrade is in the public interest. FM Allocation Rules of Part 73, Subpart B, FM

Broadcast Stations, 62 RR 2d (Pike & Fischer) 17, 21 (1987). In such a situation, the Bureau requires the applicant to make a compelling public interest showing because such an upgrade constricts non-commercial educational radio operations at the upper portion of the non-commercial educational band (i.e., Channels 201-220).^{1/} In addition, in evaluating the applicant's public interest showing, the Bureau must be mindful of its statutory mandate to prohibit all interference between broadcast stations, including blanketing interference. 47 U.S.C. § 303(f); 47 C.F.R. § 73.318 (1995).

While Granite takes no position on whether Harbor's Petition is in the public interest, it is concerned that operation on Channel 221C3 at Hermantown will cause interference to Station KBJR(TV). Under the Commission's rules, Harbor is required to resolve, at its expense, all complaints of blanketing interference^{2/} for a one-year period following the commencement of program tests on Channel 221C3. 47 C.F.R. § 73.318(b) (1995). Following that one-year period, Harbor must provide technical information or assistance to those with blanketing interference complaints. Id. As a result, the construction permit for

^{1/} The existence of television operations on Channel 6 reduces the spectrum available in a market for public broadcast operations at the lower portion of the non-commercial educational band, while an upgrade on Channel 221 would exacerbate the problem by constricting non-commercial educational operation at the upper portion of the band. FM Allocation Rules, supra, 62 RR 2d at 21.

^{2/} Blanketing interference exists in areas adjacent to a station's transmitting antenna that receive a signal of 115 dBu or greater. 47 C.F.R. § 73.318(a) (1995).

Harbor's Channel 221C3 should be conditioned to require Harbor to take all necessary steps to prevent and remedy blanketing and any other forms of prohibited interference which may be caused to Station KBJR(TV) as a result of the proposed upgrade.

II. CONCLUSION

Based on the foregoing, Granite respectfully requests the Bureau to impose a condition on any upgrade to Channel 221C3 requiring Harbor to remedy any resulting interference caused to the reception of Station KBJR(TV)'s signal.

Respectfully submitted,

GRANITE BROADCASTING CORPORATION

By: Michael Ray
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Date: June 28, 1996

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A Granite Broadcasting
Corporation Station
An NBC Affiliate



**KBJR CHANNEL 6
DULUTH-SUPERIOR**

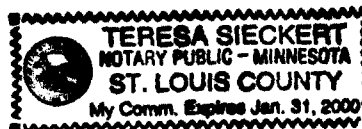
AFFIDAVIT OF ROBERT WILMERS

1. **My name is Robert Wilmers. I am the President and General Manager of Station KBJR(TV), Superior, Wisconsin.**
2. **I have read the foregoing Comments. I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information and belief.**
3. **Further affiant sayeth not.**

**Robert Wilmers
President and General Manager
Station KBJR(TV)**

**SUBSCRIBED AND SWORN TO BEFORE ME
This 27 day of June, 1996.**

My commission expires:



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Granite Broadcasting Corporation was served by first-class U.S. mail, postage prepaid, on this 28th day of June, 1996, on the following:

Timothy E. Welch, Esq.
Hill & Welch
1330 New Hampshire Ave., N.W.
Suite 113
Washington, D.C. 20006
Counsel for
Harbor Broadcasting, Inc.



Eileen Frazier